IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 982 OF 2006

Mr. Ajaykumar Yadav, Son of Bisheweshwar Yadav. ..Applicant.

Vs.

State of Maharashtra ..Respondent.

Mr. Shreeram S. Kulkarni for the Applicant.

Mr. R.Y. Mirza, APP for the Respondent- State.

CORAM : V.M. KANADE, J.

DATED : 13TH MARCH, 2006.

P.C.:

1. Heard the learned counsel for the Applicant and learned APP for the State.

2. The applicant apprehends that he is likely to be arrested in connection with the offence punishable under section 304 and 316 of the Indian Penal Code, registered vide C.R. No. 303 of 2005. It is alleged that the Applicant had given fist blows to his pregnant wife and as a result, his wife and the child in the womb had died on 13.08.2004. A complaint was filed by the Father of the deceased after 16 months from the date of the

incident i.e. 12.12.2005, making allegations that the applicant had assaulted his daughter with kick blows and fist blows at her stomach and therefore, the child in her womb and the mother, both died.

3. The learned APP has invited my attention to the complaint and has also brought to my notice the medical papers of the deceased. The deceased, initially, was admitted in Dr.D.Y. Patil Hospital and Research Centre. The medical record shows that she was initially examined on 8th of August, 2004 and thereafter, she was admitted on 12th August, 2004. The medical case sheet reveals that she was monitored every half an hour and her condition was normal and the condition of the child in womb was also normal. She had not stated to the doctor about the alleged assault by the applicant. The medical record indicates further that on 12.08.2005 at about 10.00 pm., there was no foetal moment and therefore, she was transferred to the Sassoon Hospital, Pune at 10.55 pm.. At the Sassoon hospital, a cesarean was performed, after the consent of the applicant was taken on 13.8.2004 at 5.30 a.m. in the morning. She and the child, however, died in the Sassoon hospital. The post-mortem, which was performed, also indicates that the lady died after the cesarean operation. The entire medical papers do not disclose at any stage that either

the wife of the applicant had complained of the assault by the applicant or any complaint been made by the deceased to the doctor. The doctors also have not stated that the cause of death was due to assault. Considering this medical evidence, in my opinion, a prima facie case is made out for grant of anticipatory bail. Further circumstance is the delay in recording the FIR. The FIR has been lodged after 16 months and no explanation has been given for the delay in recording the FIR. Prima facie it appears that the FIR is lodged with an ulterior motive to falsely implicate the present applicant.

4. In the circumstances, the applicant, in the event of his arrest in connection with CR No.303/2005 for the offence under sections 304 and 316 of the IPC, registered by the Bhosari Police Station, may be released on bail in sum of Rs.5000/- with one surety in the like amount. The applicant shall report to Bhosari Police Station initially for a period of one week from 20th March, 2006 within 11 a.m. and 5 p.m. and thereafter, he shall report once in a month.

5. The application is disposed of in the above terms.

13.03.2006 (V.M.Kanade,J)

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